

LANDS IN SEVERALTY
TO INDIANS

Lewdermolen, March 67

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ILLUSTRATED BY EXPERIENCES

WITH

THE OMAHA TRIBE.

BY

MISS ALICE C. FLETCHER.

[From the PROCEEDINGS OF THE AMERICAN ASSOCIATION FOR THE ADVANCEMENT
OF SCIENCE, Vol. XXXIII, Philadelphia Meeting, September, 1884.]

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LANDS IN SEVERALTY TO INDIANS; ILLUSTRATED BY EXPERIENCES
WITH THE OMAHA TRIBE. By Miss ALICE C. FLETCHER,
Peabody Museum, Cambridge, Mass.

ACCORDING to the report of the Commissioner of Indian Affairs for 1883, the total number of Indians in the United States, exclusive of Alaska, is given as 265,565.

The amount of land reserved for Indian occupancy is stated at 143,526,540 acres; of this, 125,639,725 acres are untillable, leaving 17,886,815 acres fitted for agriculture.

The same report gives 630,960 acres as under cultivation by 40,145 Indian families.

10,226 families are stated to be engaged in other civilized pursuits.

At the average of five persons to a family, we find that of the

265,565 Indians in the United States 200,725 are engaged more or less in farming, 51,330 in other civilized pursuits and 13,510 gaining their livelihood by fishing, hunting, root-gathering and government rations. A large proportion of this latter number live in regions where life can hardly be sustained in any other manner. Concerning some of these localities it has been wittily said that "not even a rabbit could live there except at government expense."

More than two-thirds of the Indian population are shown to be already engaged in farming; the question of land tenure in therefore of practical importance, not only to the Indian, that he may enjoy permanent benefits from his industry and progress in self-support, but to our own people, since the future interests of the two races are closely interwoven.

Mr. Lucien Carr, Assistant Curator of the Peabody Museum,¹ Cambridge, Mass., says of the Indians as agriculturists: "All the records tell us that the early colonists in New England, Virginia and elsewhere, throughout the eastern portion of the United States, owed their lives on more than one occasion to the timely supplies of corn begged, bought or stolen from the natives . . . The testimony is uniform of the cultivation of corn in greater or less quantities by all the tribes living east of the Mississippi and south of the St. Lawrence and Great Lakes . . . and instead of cultivating it in small patches as a summer luxury it can be shown on undoubted authority that everywhere within the limits named the Indian looked upon it as a staple article of food both in summer and winter: that he cultivated it in large fields and understood and appreciated the benefits arising from the use of fertilizers; indeed, such were his proficiency and industry, that even with the rude and imperfect implements at his disposal he not only raised corn enough for his own use, but, as a rule, had some to spare to his needy neighbor, both red and white." Many instances are given, setting forth the great quantity of corn raised as the invasion of four villages of the Senecas by the French under Denonville in 1687, when 1,200,000 bushels of corn were destroyed, the people taking it quietly remarking that the other Iroquois natives were able to make the loss good. Mr. Carr com-

¹ Kentucky Geological Survey, Vol. II, "Mounds of the Mississippi valley historically considered."

bats the fellow of the agricultural error, which is "that the Indian considered field labor as derogatory and left it to the women." He brings strong evidence to show that the Indians of the Mississippi valley lived in fixed villages which they were in the habit of fortifying by palisades; that they raised corn in large quantities and stored it in caches and granaries for winter use; and that while it is a fact that "the women, children and old men and slaves always cultivated the fields, yet the warriors cleared the ground, and when not engaged in war and hunting aided in working and harvesting the crop, though the amount of such assistance varied, being greater among the tribes south of the Ohio and less among the Iroquois or Six Nations. By the testimony of the same early writers it can be shown that the rights of property were duly recognized and respected, and that there existed among the Indians a system of intertribal traffic."

The historical statements collated by Mr. Carr are corroborated by existing customs among the tribes formerly dwelling east of the Mississippi, and a remarkable substantiation of the truth of early observers is found in the fact already cited, that two-thirds of the entire Indian population are to-day engaged, more or less, in agriculture. In this connection it should be remembered that most of the tribes living east of the Mississippi have suffered more or less forcible removal from the homes of their fathers, and that the uprooting of a people dissipates both courage and enterprise. Agriculture, therefore, must have been a familiar occupation to these Indians for many generations, or it would not thus persist under adverse circumstances.

The Indians of the plains who lived almost exclusively by hunting, the territory they inhabited not being naturally adapted to agriculture, have within the last ten or fifteen years given notable instances of a willingness to farm, and a desire to be instructed in agriculture and to own their lands individually. The Crows of southern Montana, who are beginning to farm, have a tradition that their people once raised corn. All the Indians, even those who did not have the cereal, when first met by the white men, evince a great liking for corn, and desire to possess it for food. There is not an Indian tribe within the limits of the United States living on land susceptible of agriculture, by irrigation or otherwise, but that has some land under cultivation, and, as all the reports

of the Indian Bureau go to show, an increase in this amount depends largely upon the encouragement, instruction and assistance received from those having the Indians in charge.

It is but just to the government officials to say that their willingness generally far outstrips their means, the appropriations by Congress falling far short of the requirements necessary to push the Indians forward to self-support.

It is frequently taken for granted, that because the Indian in his native condition did not connect the abstract idea of property with the land, therefore he regarded the land as belonging to the tribe in common, the individual merging his right in that of the community; and, also, because the land was recognized by the Indian as a religious symbol and reverently addressed, the Indian was averse to using it, and to owning it individually. Unfortunately both these errors have been commonly accepted as facts.

It is difficult to explain briefly the relations of the Indian to Nature, and yet some knowledge of this relation is needful to a correct understanding of his mental, social and religious habits. To the Indian no aspect of nature is clearly defined from his own life, but is rather a part of it, or, he a part of nature. The elements, all vegetable and animal forms, are important and almost equally potent, and are linked in some mysterious way to his actions, and even his very existence. Relationship is the basis of Indian society, and constitutes the one tie which cannot be broken, which must always respond to an appeal or obligation, therefore the Indian seeks to propitiate, placate, win to friendliness and help, the elements and the varied forms of life, by addressing them in terms of the closest relationship, as Father, Mother, Grandfather, etc. The corn is called "Mother," for nourishment is received by it. The earth is addressed as "Grandmother," since all things come from it, etc. This manner of regarding nature is not conducive to the development of the idea of holding land as property, of placing a money value upon it, and passing it from one buyer to another as one would a garment. It was both natural and habitual for groups of Indians to remain within certain localities, to cultivate the soil in fields of greater or less extent, and use the land for the maintenance of life.

They argue: "The life of man depends upon the earth, he cannot live away from it, how then can one person own land to the exclusion of other men?" Why should not men claim to own the air,

or the water, which are equally necessary to life?" Slowly the white man's estimate of land is forced upon the Indian mind, and while it is not yet fully understood, it is accepted by him as the interpretation which must control the future. This acceptance has come about through terrible tragedies which have thrown shadows over the history of our country. Happily the story of the Omaha tribe is not one of this sad class, although it illustrates the historic facts of the relations of the Indians to the land, and also the advisability of allotting to him lands in severalty.

The Omaha tribe formerly lived in fixed villages composed of earth and timber lodges, and cultivated the soil, raising corn, beans, squash and melons. The agricultural work was chiefly conducted by women, although, when necessary the men assisted. The time of planting was regulated by a religious custom. A few kernels from a perfect ear of red corn, were distributed among the different households by the keeper of the sacred tents of the Hunga gens, and these kernels were mixed with the seed for planting, which then took place. Sheltered valleys and bottom lands were favorite places for cultivation. The same family used the same piece of land for years, occupancy being always respected. If a family abandoned a field another might then use the ground. There were always some persons more thrifty than others, who secured better fields, and consequently raised larger crops. No corn was cultivated as a tribal product, nor were there stores of any kind held in common. All possessions were individual, family property could hardly be said to exist, even the belongings of a child were respected by its parents and relatives. During planting and harvest, relatives were expected to help one another but this was not obligatory.

The Omaha Reserve lies in the state of Nebraska, on the west bank of the Missouri, about eighty miles north of the city bearing the name of the tribe. The people have been in this region for more than a century. Although driven by wars, west to the Elkhorn river and as far south as the vicinity of Lincoln, the capital of the state. These Indians have clung persistently to their villages on Omaha Creek and its tributaries. In 1855 they made their first separate treaty with the United States and ceded their hunting-grounds lying between the Nebraska and Platt, a range not far from 200 miles north and south, and 300 east and west. In this treaty they negotiated to have their land allotted in severalty. As

the agreement was not carried out, their treaty of 1866 contained a distinct provision for the survey and allotment of the land to those members of the tribe living at that time upon the reservation. Accordingly the reservation was surveyed in 1868, and within the next three years 331 certificates of allotment were issued. About ten years ago the tribal village was abandoned, and the work of agriculture began in earnest. The extinction of the buffalo herds made the raising of corn and wheat of paramount importance, as henceforth the people must depend upon the products of the soil as the sole means of obtaining their entire supply of food, clothing, and all the necessities of living. The purchase money due the tribe was paid in yearly instalments of the principal, and a portion of the payments was devoted to the purchase of wagons, harness implements, etc.; these were of great help to the people now engaged in the struggle of self-support.

When the Poncas, a kindred tribe, were being taken by soldiers to the Indian territory from their home on the Nebraska, where they had built houses and opened farms, the Omahas visited their relatives as they were en route south. Their distressing circumstances startled the Omahas out of their feeling of security on their allotted lands. To make sure of their own land tenure, lest they too might suffer such an expulsion, some of the progressive men took their certificates of allotment, which they had always supposed to be patents, to a lawyer for examination. When the Indians heard that the certificate granted occupancy only, and gave no title to the land, not a thoughtful man among them but dreaded the morrow. Unable to speak directly to the authorities, conscious of being misunderstood and disliked by the white people, distrusting all officials, the Indians felt themselves helpless in the grasp of a power to which they could neither reach nor appeal. In the face of this dismay, it is a wonder they continued to work and improve their farms which they could not own.

When the writer went among the tribe to study their life and customs they were found in the midst of this sore trouble; passing from family to family, seeing their efforts, feeling their sorrow, it was impossible to do otherwise than to seek some means by which to bring them help. Statistics of their work were gathered and these showed beyond cavil that a large portion of the tribe had practically homesteaded their farms, and thus had a just claim for a patent, aside from any plea of sentiment or abstract right to the

land of their fathers. The effort to secure their land based on this claim was successful, and on Aug. 7, 1882, the President signed the bill granting the Omahas patents to their lands in severalty. In May, 1883, under the authority of the Secretary of the Interior, the writer began carrying out the provisions of the bill, and completed the work in July, 1884.

The bill gives to each head of a family 160 acres. Orphans and single persons of eighteen years and over, 80 acres. All persons under eighteen years, 40 acres.

Nearness to market, and land fully fitted to agriculture are essentials to successful self-support. The Indians were urged to take their lands when these two important points could be covered. The tribe were mostly scattered in the valleys of the bluffs of the Missouri, and 10, 20 or 30 miles from market and consequently suffering from many disadvantages. Their fields were small, and often subject to the sudden rise and overflow of the stream. To encourage the people to make this desirable change the writer's first camp was pitched in the fertile valley of the Logan, through which the Omaha and Sioux city railroad runs following the stream. The people in large numbers soon gathered there and each day was spent going about with the Indians, aiding them in their selection of lands, and advising them as to the work of starting their new homes.

In the two townships through which the railroad passes, and in the two adjoining townships to the eastward, 326 allotments were made; 69 were to heads of families, 58 to single adults, and 199 to persons under 18 years of age. This remarkable exodus shows the spirit of the people, and promises well for the future. Nearness to market is secured, and the finest land on the reservation is now possessed individually by many of the most progressive families in the tribe. Already on these allotments something like 700 acres of prairie have been broken, trees planted, and in a few instances, crops gathered, and several houses have been built.

During the allotment of the lands a surveyor reestablished the corners of sections where needful and each Indian was made familiar with his landmarks and as far as possible taught the use of the township plats. An outline of our laws of property and legal descent were explained. These were difficult to make clear to the comprehension of the people, owing to ancient tribal customs.

The money value of different locations was no incentive to selec-

tion. All arguments were generally met with the saying; "That may do for the white man, who does not love the land and is willing to part with it, but it is different with the Indian. If the land is good and near to the market, I must keep the land if I would have its value. Should I sell the land, I would have nothing to live on, and what difference then to me, its price?"

Considerable formality was arranged to attend the signing of the paper of selection, from which the patent was to be made out. Each man and woman signed his or her name or made the mark, in the presence of witnesses known to the signer, and the reason of this formality explained. Each Indian was thus brought into direct and intelligent responsibility with his or her choice of land, and taught the importance attached to the signing of a person's name and the guards placed about the act by our forms and customs. The use and destination of the signed papers were carefully explained as well as the series of checks instituted by the government to insure against mistakes. To do the work in this manner took time, but it has left a permanent value among the people.

Prosperity and social growth depend largely upon the stability and security of the family. Indian customs pertaining to marriage and divorce do not conform to the general laws of our country. When the ancient Indian social usages were in full force and vigor, the integrity of the family was fairly maintained, but the loss of the old restraints has never yet been made good by the substitution of our protective legal forms.

In order to prepare the way for a better social order and at the same time furnish the data for the legal inheritance of the land, as provided for by the Act of Congress under which the allotments were being made, a full registry of the tribe by families was prepared and indexed, giving the name of each member and their relationship, and also the number of each allotment of each individual. This number was also placed upon its proper section and subdivision on the township plat. The registry and the plats thus complement and explain each other and will afford the agents the means to intelligently and effectively maintain the family relation and secure the proper descent of the land. Ample space was left in the registry book for the formation of new families, and the Indians urged to report each birth and death and marriage for registration in order to secure the full rights of the land. In view of the pe-

culiar difficulties attendant upon obtaining exact information concerning Indian families; difficulties arising out of social customs, such as it being improper to mention the names of certain relatives and the complicated and extended Indian relationships, the establishing of this complete registry of families was one of the most important acts connected with the work of allotment.

75,931 acres were allotted in 954 separate allotments to 1,179 persons. About 55,450 acres remain to the tribe for the benefit of children born during the next twenty-five years, the period of trust or guardianship vested in the United States.

The tribe at present has between 6 and 7,000 acres under cultivation and raise in round numbers about 100,000 bushels of corn, 50,000 bushels of wheat, 30,000 bushels of vegetables and other small grains, and put up over 30,000 tons of hay. An Omaha, and not one of the largest farmers, raised, last year, 1,800 bushels of corn beside a good crop of wheat and vegetables. Another man sold over 800 bushels of potatoes, of excellent quality, and he also raised a very large crop of wheat, corn and other grain and vegetables. It should be stated that both these instances are given where all the work was done by one man, with such help as his wife and young children could render, the older children being at school. It is seldom that more than two men work on a farm and there is not a hired laborer on the reserve.

Assigning the land in severalty is comparatively easy when the region is one fitted to agriculture. 160 acres of prairie can be definitely calculated to produce certain crops and income, but there are vast tracts on Indian reservations which must be divided differently: for instance, the arid region occupied by the Navajo tribe. These Indians are self-supporting by sheep-raising and their present territory is fitted for little else; equitable division of their land must be based upon other calculations than prairie land. So, too, of the regions in Montana and other western territories, where water is as great a need as land, all crops being dependent upon irrigation. Again, the fishing tribes of the Pacific coast present another aspect; none, however, offer obstacles which can not and should not be overcome. The Indian crisis is upon us and a delay of a few years will find the task made more difficult. For the benefit of all concerned, the Indian should be given his just and individual rights to the land, to the law and to education. He is asking it and, as far as his power of discern-

ment goes, using it. Chiefs oppose because land in severalty breaks up completely their tribal power and substitutes civilization and law.

It is clear beyond cavil that the Indian must die or become absorbed in the body of citizens. That he is not likely to die out is shown by the fact that he is already on the increase; therefore, citizenship with its duties seems to be his appointed end, and he stands in need of preparation to meet his coming fate. It is hugging a delusion to suppose that any distinct Indian nation or nations can exist within the limits of the United States; that question has been settled for men of all colors and races.

Reservations took rise partly through the fears and hatreds bred of race conflicts, and while they have had their uses they are not adequate to the task of fully civilizing the Indian tribes. What the Indian needs is that which every man needs: opportunity for experience, the freedom to make mistakes and suffer from them, the urgency of necessity to stimulate and secure individual and social growth. These conditions do not and can not exist under the isolation and protection of the reservation system. The best schooling for the Indians is to mix with and live with the white people, and those who know the Indians best do not find them bad neighbors. Nor are the Indians apt to suffer so much from white settlers as from the roving adventurers who find immunity from law near the reserves. The larger reserves which lie scattered over the country are harmful in their influence; the stretches of uncultivated land often block the path of enterprise. As the Indians have neither the training nor capital to open up the country, and the white men are tempted to acts of injustice to become possessed of the unoccupied territory, it would be for the advantage of civilization to break the reservation up and make possible the conditions under which the Indians can become self-supporting.

Such a procedure would be but just to the more than two-thirds of the Indian population who are to-day trying to engage in agriculture. They should be given their lands in severalty, the title thereto being properly secured for a term of years, and the remainder of the reservation should then be thrown open to white settlement. The Indians would thus be brought into daily contact with every-day, civilized living with its various activities, its opportunities for advancement, and its educated public opinion which

recognizes the value of labor. Better acquaintance and better understanding between the red and white man would follow. Industry would find its reward, and the law would protect friend from foe. By no other method can the two races be safe with each other in the land where they are fated to dwell together. The Omahas are not an exceptional tribe, except in the fact that they have never suffered a removal. Other tribes of like enterprise should have a like reward of titles to their lands, for their efforts toward civilization, made in the absence of any social stimulus, for all their efforts have been individual, and not communistic.

While the Indian has not in his native thought the abstract idea of property in law, he is nevertheless accustomed to use the land, to cultivate it individually, to be secure in the fruit of his labor; similar results can only be obtained among us by individual legal land tenure. For the possession of this right, the different tribes urge strongly their claim through their only official organ, their agents. Every report of the Commission of Indian Affairs gives ample testimony to this statement. The general condition of advancement of the Indians hardly warrants giving them to-day a fee-simple title to their lands. A large portion are still struggling with the task of acquiring a new language, new methods of thought, new modes of living, and the confusion incident to the removal of ancient landmarks; but none of these conditions are in the way of giving to many tribes their lands in severalty, the patents being held in trust for a limited term of years. All candid observation bears out the remark of the Honorable Commissioner, that "in no case where allotments have been made and the title secured with proper restrictions have any other than the best results followed."

That the words of the Indian himself upon self-support may be heard, the following quotation is taken from an appeal sent through the writer by the Councilmen of the Omaha tribe to the Commissioner of Indian Affairs.

"We want to go forward by our own exertions; to make this sure, to have the way clear before us, we say, that as long as the Government sends us employés we never can work for ourselves. We want the Government to let us become fully self-supporting. We want our children educated; some are being educated away from the Reserve, others have already learned trades, these latter can open shops for themselves, and we can employ them and pay them for their work. We can learn much faster by striving for

ourselves than in any other manner. This is the way the white people do, each man struggles for himself and his family, and owns his property. The Government does not deal with us as with individuals, and even the implements are sent to the tribe. No one takes care of them for each one says, 'they are not mine.' We do not wish this done any more. It is not good for the people. We wish to buy our own implements. The money is now eaten up fast by the officials. They may try to do right, but they do not satisfy us. They do not tell us of the money expended, they do not tell us what is paid for different articles, and we are kept in ignorance of our money affairs. As to what is needed to be bought, all the people are not of one mind. It would be better if each person selected and bought his own implements, he would learn more and improve faster if he acted for himself. Our money is now all expended for us. This is unjust, we do not wish it to continue. It seems to us that the Government has given us things as playthings are tossed to children, to be used by all of them as something in common. The money so used is wasted, because there is no individual care or interest, no one owns anything. If we could speak to your friends in the East, we would say, 'We desire to be treated as men, not as children, so that we be listened to, and our wishes considered.'"